Customs Bulletin

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This issue contains

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DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 79–62)

Bonds

Approval and discontinuance of carrier bonds, Customs form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: February 9, 1979.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Bob Aikins Lines, Inc., P.O. Box 264, Lawrenceburg, IN; motor carrier; Indiana Ins. Co. (PB 3/20/74) D 12/27/78	Nov. 24, 1978	Dec. 27, 1978	Cleveland, OH; $50,000
Air Couriers Inc., 9338 Woodson Terrace Industrial Court, St. Louis, MO; motor carrier; Safeco Ins. Co. of America.	Jan. 1, 1979	Jan. 17, 1979	St. Louis, MO; $50,000
Antrim Transportation Co., Inc., 7–11 Suffern Place, Suffern, NY; motor carrier; Seaboard Surety Co. D 12/28/78	Dec. 3, 1976	Dec. 7, 1976	New York Seaport; $50,000
Armellini Express Lines, Inc., Oak & Brewster Rds., Vineland, NJ; motor carrier; Employers Mutual Liability Ins. Co. of WI. (PB 12/16/69) D 12/18/78 [1]	Dec. 16, 1978	Dec. 18, 1978	New York Seaport; $25,000
Armstrong Trucking Co., Inc., 141 Provost St., Jersey City, NJ; motor carrier; Peerless Ins. Co. D 12/27/78	Sept. 16, 1976	Oct. 8, 1976	New York Seaport; $50,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Articare Transport, Inc., 47 East St., Rockville, CT; motor carrier; The Continental Ins. Co. D 1/22/79	Feb. 15, 1974	Apr. 10, 1974	Brigeport, CT; $25,000
Blue Hen Beverages, Ltd., 501 New Churchmans Rd., New Castle, DE; motor carrier; Aetna Ins. Co. D 12/4/78	Oct. 17, 1977	Oct. 19, 1977	Philadelphia, PA; $25,000
Brooks Transportation Inc., P.O. Box 91069, Cleveland, OH; motor carrier; Travelers Indemnity Co.	Dec. 26, 1978	Jan. 3, 1979	Cleveland, OH; $50,000
Central Freight Lines, Inc., P.O. Box 238, Waco, TX; motor carrier; United States Fidelity & Guaranty Co. (PB 1/25/68) D 1/16/79 [3]	Dec. 29, 1978	Jan. 16, 1979	Houston, TX; $25,000
City Freight Lines, 22560 Lucerne St., Carson, CA; motor carrier; Mid-Century Ins. Co. (PB 9/11/75) D 12/12/78 [3]	Aug. 21, 1978	Dec. 13, 1978	Los Angeles, CA; $50,000
Coast Transport, Inc., 1906 SE 10th Ave., Portland, OR; motor carrier; Peerless Ins. Co. (PB 12/19/69) D 1/1/79 [4]	Dec. 6, 1978	Dec. 27, 1978	Portland, OR; $25,000
Colonial Trucking, Inc., 20 North Montello St., Brockton, MA; motor carrier; Peerless Ins. Co. D 12/29/78	Oct. 31, 1976	Oct. 31, 1976	Boston, MA; $50,000
Diaz Motor Freight, Inc., 2829 Frenchmen St., New Orleans, LA; motor carrier; Fireman's Fund Ins. Co. (PB 1/7/70) D 1/9/79 [5]	Jan. 7, 1979	Jan. 9, 1979	New Orleans, LA; $25,000
Edgar M. Douthitt d/b/a EMD, 520 27th Ave. NE, Great Falls, MT; motor carrier; St. Paul Fire & Marine Ins. Co.	Dec. 19, 1978	Dec. 20, 1978	Great Falls, MT; $25,000
Hemingway Transport, Inc., 438 Dartmouth St., New Bedford, MA; motor carrier; Continental Casualty Co. (PB 10/17/76) D 1/10/79 [6]	Oct. 11, 1978	Jan. 10, 1979	Boston, MA; $50,000
Intermodal Transportation Services, Inc., 750 West Third, P.O. Box 14072, Cincinnati, OH; motor carrier; Nationwide Mutual Ins. Co.	Dec. 5, 1978	Dec. 12, 1978	Cleveland, OH; $50,000
Allegheny Corp. d/b/a Jones Motor Div. of Allegheny Corp., Bridge and Schyllkill Rds., Spring City, PA; motor carrier; Insurance Co. of North America (PB 11/24/53) D 10/30/78 [7]	Nov. 24, 1977	Oct. 31, 1978	Philadelphia, PA; $25,000
Carlos Pacheco Lucena, Urb. Villa Ramonita No. 18, Bo. Maguelles, Ponce, PR; motor carrier; Puerto Rican-American Ins. Co.	Dec. 5, 1978	Dec. 29, 1978	San Juan, PR; $25,000
Boyd Mahaffey d/b/a Mahaffey Trucking, Black Eagle, MT; motor carrier; Hartford Accident & Indemnity Co.	Dec. 5, 1978	Dec. 20, 1978	Great Falls, MT; $25,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Metroflight, Inc., d/b/a Metro Airlines and d/b/a Metroflight Airlines, P.O. Box 58608, Houston, TX; air carrier; National Surety Corp. (PB 11/22/77) D 12/11/78	Nov. 22, 1978	Dec. 11, 1978	Houston, TX; $25,000
Miller Livestock Truck Co., Inc., Route 8, Box 224, Bakersfield, CA; motor carrier, Aetna Ins. Co. (PB 3/30/73) D 10/21/78 [8]	Oct. 20, 1978	Oct. 21, 1978	Laredo, TX; $25,000
Moore Transportation Co., Inc., 3509 North Grove, Fort Worth, TX; motor carrier; Fidelity and Deposit Co. of MD	Jan. 16, 1979	Jan. 17, 1979	Houston, TX; $25,000
Mountain Pacific Transport (Edmonton) Ltd., 241 Schoolhouse St., Coquitlam, B.C., Canada; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 7/9/75) D 1/30/79 [9]	Jan. 22, 1979	Jan. 31, 1979	Seattle, WA; $25,000
Newport Trucking Inc., P.O. Box 52-2323, Miami, FL; motor carrier; St. Paul Fire & Marine Ins. Co.	Jan. 23, 1979	Jan. 24, 1979	Miami, FL; $50,000
New York Massachusetts Motor Service, Inc., 83 Progress Ave., Springfield, MA; motor carrier; Ins. Co. of North America D 4/18/79	Oct. 4, 1976	Apr. 26, 1977	Boston, MA; $25,000
The O. K. Trucking Co., 3000 Crescentville Rd., East, Cincinnati, OH; motor carrier; Ohio Farmers Ins. Co. D 12/8/78	Nov. 12, 1976	Dec. 9, 1976	Cleveland, OH; $25,000
Port Terminal Refrigerated Transport, Inc., Foot of Algiers St., Bldg #153, Port Newark, NJ; motor carrier; Fidelity & Deposit Co. of MD (PB 1/20/66) D 12/8/78 [10]	Nov. 21, 1978	Nov. 21, 1978	New York Seaport; $25,000
Presto Delivery Service, Inc., 533 Colyton, Los Angeles, CA; motor carrier; Insurance Co. of North America. D 1/11/79	July 24, 1976	Sept. 23, 1976	Los Angeles, CA; $50,000
Red Arrow Delivery Service Co., Inc., Cargo Bldg-Metropolitan Airport, Nashville, TN; motor carrier; The Aetna Casualty & Surety Co.	Jan. 15, 1979	Jan. 16, 1979	New Orleans, LA; $25,000
Seaboard Coast Line Railroad Co., and Louisville & Nashville Railroad Co. joint lessees Carolina, Clinchfield & Ohio Railway., Carolina, Clinchfield & Ohio Railway of South Carolina, & Clinchfield Northern Railway of Kentucky, operating under the name of Clinchfield Railroad Co., Erwin, TX; rail carrier; Ins. Co. of North America. (PB 9/8/70) D 9/28/78 [11]	Aug. 24, 1978	Sept. 28, 1978	New Orleans, LA; $50,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Seatrain Lines Inc., and its wholly owned subsidiary Seatrain Gitmo Inc., Port Seatrain, Weehawken, NJ; rail and water carrier; St. Paul & Marine Ins. Co. (PB 5/21/46) D 1/15/79 [13]	Jan. 15, 1979	Jan. 15, 1979	New York Seaport; $100,000
Short Freight Lines, Inc., 459 S. River Rd., Bay City, MI; motor carrier; The Aetna Casualty & Surety Co. (PB 7/3/74) D 1/9/79 [13]	Dec. 18, 1978	Jan. 9, 1979	Detroit, MI; $50,000
Smith Transportation Co., 731 South Lincoln, Santa Maria, CA; motor carrier; Hartford Accident and Indemnity Co.	Nov. 29, 1978	Dec. 20, 1978	Los Angeles, CA; $50,000
J. K. Stockwell Ltd., P.O. Box 176, Leamington, Ontario, Canada, motor carrier; St. Paul Fire & Marine Ins. Co.	Jan. 8, 1979	Jan. 9, 1979	Detroit, MI; $50,000
System 99, A CA Corp.; System 99 Operator of Trans-Western Express, Inc., 8201 Edgewater Drive, Oakland, CA; motor carrier; Peerless Ins. Co. (PB 8/23/74) D 12/5/78 [14]	Oct. 12, 1978	Dec. 5, 1978	San Francisco, CA; $25,000
Trans-American Van Service, Inc., 12301 W. Freeway, Fort Worth, TX; motor carrier; Mid-Century Ins. Co. D 1/31/79	Nov. 18, 1977	Mar. 23, 1978	Houston, TX; $25,000
Trans-American World Transit, Inc., 12301 West Freeway, Fort Worth, TX; motor carrier; Mid-Century Ins. Co. D 1/31/79	Nov. 18, 1977	Mar. 23, 1978	Houston, TX; $25,000
Trimac Transportation Group Ltd., and its wholly owned subsidiaries: H. M. Trimble & Sons, Ltd., Oil and Industry Suppliers Ltd., Maccam Transport Ltd., Municipal Tanklines Ltd., Mercury Tanklines Ltd., P.O. Box 3500, Calgary, Alberta, Canada; motor carrier; Seaboard Surety Co. (PB 8/29/75) D 1/12/79 [15]	Dec. 20, 1978	Jan. 12, 1979	Great Falls, MT; $150,000
John Turevich Produce Express, R.R. #1, Jordan Station, Ontario, Canada; motor carrier; Transamerica Ins. Co. D 12/2/78	Jan. 7, 1975	Feb. 19, 1975	Buffalo, NY; $25,000
Varbus Enterprises, Inc., d/b/a Valley Truck Lines, 149 West 6th St., Calexico, CA; motor carrier; Aetna Casualty & Surety Co. D 1/31/79	Nov. 21, 1974	Dec. 3, 1974	San Diego, CA; $25,000
Wells Cartage Ltd., 726 Powell St., Vancouver, B.C., Canada; motor carrier; The Continental Ins. Co.	Sept. 21, 1978	Jan. 11, 1979	Seattle, WA; $25,000
West Transportation Inc., 401 Ryder St., Vallejo, CA; motor carrier; Peerless Ins. Co. (PB 1/29/69) D 1/8/79 [16]	Nov. 16, 1978	Jan. 8, 1979	San Francisco, CA; $25,000

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Wilson Freight Co., 11353 Reed Hartman Highway, Cincinnati, OH; motor carrier; The American Druggists' Ins. Co. (PB 11/7/68) D 1/23/79 [17]	Dec. 20, 1978	Jan. 23, 1979	Cleveland, OH; $100,000

[2] Surety is The Hanover Ins. Co
[3] Surety is National Surety Corp.
[3] Surety is Liberty Mutual Ins. Co.
[4] Surety is Transport Indemnity Co.
[5] Surety is The Traveler's Indemnity Co.
[6] Surety is Fidelity & Deposit Co. of MD
[7] Principal is Jones Motor Co., Inc.
[8] Principal is Kenneth D. Miller d/b/a Miller Livestock Co. Surety is Mid-Century Ins. Co.
[9] Principal is British Pacific Transport Ltd.
[10] Principal is Frigid Express, Inc.
[11] Surety is Fidelity & Deposit Co. of MD
[12] Principal is Seatrain Lines Inc.
[13] Surety is Fidelity and Deposit Co.
[14] Surety is Royal Indemnity Co.
[15] Principal is Trimac Transportation Ltd.
[16] Surety is General Insurance Co. of America
[17] Surety is Fireman's Fund Ins. Co.

BON-3-03

DONALD W. LEWIS,
(For Leonard Lehman, Assistant
Commissioner, Regulations and Rulings).

(T.D. 79-63)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued November 7, 1978, to December 20, 1978, inclusive, pursuant to sections 22.1 and 22.5, inclusive, Customs Regulations.

In the synopses below are listed, for each drawback rate or amendment approved under section 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the effective dates of exportation, the Regional Commissioner to whom the rate was forwarded, and the date on which it was forwarded.

(DRA-1-09)

Dated: February 14, 1979.

DONALD W. LEWIS
(For Leonard Lehman, Assistant
Commissioner, Regulations and Rulings).

(A) Company: Banner Gelatin Products Corp.
Articles: Soft elastic gelatin (SEG) capsules.
Merchandise: Gelatin.
Factory: Chatsworth, Calif.
Statement signed: May 4, 1978.
Basis of claim: Appearing in.
Effective date: February 1, 1978.
Rate forwarded to Regional Commissioner of Customs: Los Angeles; November 20, 1978.

(B) Company: Beaver Home Products, Inc.
Articles: Nonpareils, imperials, and sugar crystals (sugar confections).
Merchandise: Liquid and granulated refined sugar.
Factory: Pennsauken, N.J.
Statement signed: July 28, 1978.
Basis of claim: Appearing in.
Effective date: November 24, 1977.
Rate forwarded to Regional Commissioner of Customs: New York, November 17, 1978.

(C) Company: Beecham Inc.
Articles: Monosodium ticarcillin; disodium ticarcillin bulk powder sterile; disodium ticarcillin bulk powder sterile master blend; 3 thienyl malonic acid; disodium ticarcillin finished dosage forms.
Merchandise: 3 thienyl nitrile; 3 thienyl malonic acid.
Factory: Piscataway, N.J.
Statement signed: September 25, 1978.
Basis of claim: Used in as to bulk powders; appearing in as to injectables.
Effective date: September 1, 1977.
Rate forwarded to Regional Commissioner of Customs: New York, November 22, 1978.

(D) Company: Borg-Warner Corp.
Articles: Plastic resin pellets.
Merchandise: Plastic resin powders.
Factories: Oxnard, Calif.; Akron, Ohio; Ottawa, Ill.; Washington, W. Va.; and Piscataway, N.J.
Statement signed: October 23, 1978.
Basis of claim: Used in.
Effective date: February 1, 1973.
Rate forwarded to Regional Commissioner of Customs: New York, November 22, 1978.

(E) Company: Bristol Alpha Corp.
Articles: Various pharmaceutical products.
Merchandise: Ampicillin trihydrate bulk, hetacillin, hetacillin potassium, sodium ampicillin bulk, amoxicillin trihydrate, sterile sodium cephapirin, sodium oxacillin, cefadroxyl, sodium cloxacillin, sodium methicillin, potassium phenethicillin, soudim dicloxacillin, potassium ampicillin.
Factory: Barceloneta, P.R.
Statement signed: May 5, 1978.
Basis of claim: Used in.
Effective date: January 22, 1976 for ampicillin trihydrate and various other dates as set forth in manufacturer's statement.
Rate forwarded to Regional Commissioner of Customs: New York, November 15, 1978.

(F) Company: Coleco Industries, Inc.
Articles: Above ground swimming pools.
Merchandise: Tin mill black plate steel, cold rolled steel, electrogalvanized steel, and heavy duty galvanized steel.
Factories: Gloversville, Mayfield, and Amsterdam, N.Y.
Statement signed: December 15, 1977.
Basis of claim: Appearing in.
Effective date: March 23, 1977.
Rate forwarded to Regional Commissioner of Customs: Boston, November 29, 1978.

(G) Company: Detroit Steel Products Division, the Marmon Group, Inc.
Articles: Leaf springs.
Merchandise: Hot rolled alloy spring flat bar steel.
Factories: Detroit, Mich.; Morristown, Ind.
Statement signed: September 25, 1978.
Basis of claim: Appearing in.
Effective date: October 13, 1976.
Rate forwarded to Regional Commissioner of Customs: November 22, 1978.

(H) Company: Eagle River Chemical Co.
Articles: Permethrin and permethrin technical.
Merchandise: 3 phenoxy benzyl alcohol (PBA), and permethrin acid-ethyl ester PAE (ethyl chlorsanthemate).
Factory: West Helena, Ark.
Statement signed: January 4, 1978.
Basis of claim: Used in.
Effective date: August 4, 1977.

287-543—79——2

Rate forwarded to Regional Commissioner of Customs: Baltimore, December 7, 1978.

(I) Company: Fermco Biochemics, Inc.
Articles: Enzyme products in purified, stabilized, standardized, and compounded form.
Merchandise: Glucose oxidase/catalase system of varying enzyme activity; peroxidase of varying enzyme activity.
Factory: Elk Grove Village, Ill.
Statement signed: August 18, 1978.
Basis of claim: Appearing in.
Effective date: March 19, 1976.
Rate forwarded to Regional Commissioner of Customs: New York, November 7, 1978.

(J) Company: General Mills, Inc.
Articles: Cake mixes, cereals, and other food products.
Merchandise: Powdered brown sugar.
Factories: Various factories as set forth in manufacturer's statement.
Statement signed: September 29, 1978.
Basis of claim: Appearing in.
Effective date: September 1, 1978.
Rate forwarded to Regional Commissioner of Customs: Chicago, November 16, 1978.

(K) Company: Glen Raven Mills, Inc.
Articles: Finished cotton fabric.
Merchandise: Cotton yarn.
Factory: Glen Raven, N.C.
Statement signed: July 24, 1978.
Basis of claim: Appearing in.
Effective date: October 1, 1978.
Rate forwarded to Regional Commissioner of Customs: Miami, December 4, 1978.

(L) Company: Globe-Union Inc.
Articles: Batteries, lead acid storage.
Merchandise: Corroding lead A.S.T.M. B29–55; Litharge 99.94% purity.
Factories: Various factories as set forth in manufacturer's statement.
Statement signed: September 29, 1978.
Basis of claim: Appearing in.
Effective date: February 5, 1975.
Rate forwarded to Regional Commissioner of Customs: Chicago, November 13, 1978.

(M) Company: The B. F. Goodrich Co.
Articles: Tires, rubber pneumatic.
Merchandise: Steel tire cord.
Factories: Tuscaloosa, Ala.; Akron, Ohio; Miami, Okla.; Okas, Pa.; Thomaston, Ga.; Woodburn, Ind.
Statement signed: October 27, 1978.
Basis of claim: Appearing in.
Effective date: November 1, 1977.
Rate forwarded to Regional Commissioner of Customs: Miami; November 22, 1978.

(N) Company: Kewaunee Engineering Corp.
Articles: Welded steel frames, buckets and other components for loaders, dozers, and aircraft tow tractors.
Merchandise: Steel plate
Factory: Kewaunee, Wis.
Statement signed: September 12, 1978.
Basis of claim: Appearing in.
Effective date: January 22, 1971, for International Harvester Co., February 27, 1973, for Kewaunee Engineering Corp.
Rate forwarded to Regional Commissioners of Customs: New York and Chicago, November 17, 1978.

Revokes: T.D. 74–149–S, superseded.

(O) Company: Luverne Truck Equipment, Inc.
Articles: Pickup truck parts, rear bumpers, grille guards, spare tire carriers and running boards.
Merchandise: Steel, nonalloy sheet (AISI 1010).
Factories: Luverne, Minn. (2 locations).
Statement signed: September 6, 1978.
Basis of claim: Used in.
Effective date: November 1, 1978.
Rate forwarded to Regional Commissioner of Customs: Chicago, November 29, 1978.

(P) Company: Monsanto Co.
Articles: Ethylene; propylene; benzene; naphthalene; butadiene; ethyl benzene; ortho xylene; styrene monomer; phthalic anhydride; polyethylene; acrylonitrile; phenol; santicizer 711; soft alkyl benzene (SAB); alkylate H–230 (hi-boiler); sodium nitrilotriacetate; fuel gas; various other products.
Merchandise: Crude condensate, classes I, II, III, and IV.
Factories: Alvin and Texas City, Tex.
Statement signed: August 29, 1978.

Basis of claim: As provided in the drawback rate contained in, section 22.6(g–1) of the Customs Regulations.
Effective date: January 1, 1976.
Rate forwarded to Regional Commissioner of Customs: Houston, November 7, 1978.

(Q) Company: Morrison-Knudsen Co., Inc.
Articles: Railway car ballast doors.
Merchandise: Steel plate, sheet, and bars.
Factory: Boise, Idaho.
Statement signed: August 18, 1978.
Basis of claim: Appearing in.
Effective date: February 14, 1978.
Rate forwarded to Regional Commissioner of Customs: Los Angeles, November 30, 1978.

(R) Company: Motor Wheel Corp.
Articles: Automotive wheels and parts thereof.
Merchandise: Hot rolled steel sheet.
Factories: Lansing and Ypsilanti, Mich.; Mendota, Ill.
Statement signed: July 11, 1978.
Basis of claim: Appearing in.
Effective date: August 1, 1977.
Rate forwarded to Regional Commissioner of Customs: New York, December 6, 1978.

(S) Company: Philip Morris Inc.
Articles: Cigarettes.
Merchandise: Cigarette paper.
Factories: Richmond, Va.; Louisville, Ky.
Statement signed: June 5, 1978.
Basis of claim: Appearing in.
Effective date: January 1, 1978.
Rate forwarded to Regional Commissioner of Customs: New York, November 24, 1978.

(T) Company: RCA Corp.
Articles: Television picture tubes (Kinescopes); subassemblies of TV picture tubes.
Merchandise: Glass funnels and glass panels.
Factories: Scranton and Lancaster, Pa; Marion, Ind.
Statement signed: November 8, 1978.
Basis of claim: Appearing in.
Effective date: October 1, 1976.
Rate forwarded to Regional Commissioner of Customs: Baltimore, November 27, 1978.

(U) Company: Rockwell International Corp.
Articles: Leaf springs for trucks and passenger vehicles.
Merchandise: Steel bars.
Factory: New Castle, Pa.
Statement signed: June 20, 1978.
Basis of claim: Appearing in.
Effective date: July 1, 1975.
Rate forwarded to Regional Commissioner of Customs: New York; November 13, 1978.

(V) Company: Steiger Tractor, Inc.
Articles: Steel rims or wheels.
Merchandise: Hot roll sheet steel and low carbon steel.
Factory: Fargo, N. Dak.
Statement signed: March 22, 1977.
Basis of claim: Used in, less valuable waste.
Effective date: June 18, 1976.
Rate forwarded to Regional Commissioner of Customs: Chicago, December 7, 1978.

(W) Company: Stunzi U.S.A., Inc.
Articles: Greige nylon, polyester, acetate, blended and cotton piece goods.
Merchandise: Nylon, polyester, acetate, and cotton yarn.
Factory: Buena Vista, Va.
Statement signed: September 12, 1978.
Basis of claim: Appearing in.
Effective date: January 18, 1978.
Rate forwarded to Regional Commissioner of Customs: New York; November 8, 1978.

(X) Company: Sun Chemical Corp.
Articles: Organic pigments.
Merchandise: Dye intermediates in various ratios.
Factories: Cincinnati, Ohio; Staten Island, N.Y.; Newark, N.J.; Muskegon, Mich.
Statement signed: August 25, 1978.
Basis of claim: Used in.
Effective date: March 24, 1975.
Rate forwarded to Regional Commissioner of Customs: New York; November 7, 1978.
Revokes: T.D. 76–249–Q and T.D. 77–76–X, both amended by T.D. 78–94–Y, superseded.

(Y) Company: United Technologies Corp., Pratt and Whitney Aircraft Group, Manufacturing Division.
Articles: Aircraft engines and parts thereof.
Merchandise: Finished and semifinished aircraft parts, forgings and castings.
Factories: East Hartford, Middletown, North Haven, Rocky Hill, and Southington, Conn.; West Palm Beach, Fla.
Statement signed: October 18, 1978.
Basis of claim: Appearing in.
Effective date: August 1, 1972.
Rate forwarded to Regional Commissioner of Customs: Boston, December 6, 1978.

(Z) Company: Witco Chemical Corp.
Articles: Neutral magnesium sulfonates; overbased magnesium sulfonates; overbased magnesium phenates.
Merchandise: Magnesium ingots.
Factory: Chester, Pa.
Statement signed: December 5, 1978.
Basis of claim: Used in.
Effective date: June 3, 1977.
Rate forwarded to Regional Commissioner of Customs: New York, December 20, 1978.

(T.D. 79-64)

Cotton and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in the Republic of China

There is published below a directive of December 15, 1978, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton and manmade fiber textile products in certain categories manufactured or produced in the Republic of China. This directive amends, but does not cancel, that committee's directive of June 15, 1978 (T.D. 78-248).

This directive was published in the Federal Register on December 22, 1978 (43 F.R. 59866), by the committee.

(QUO-2-1)

Dated: February 16, 1979.

WILLIAM D. SLYNE
(For Ben L. Irvin, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C. 20230, December 15, 1978.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On June 15, 1978, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and manmade fiber textile products in certain specific categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on December 18, 1978, the levels of restraint established in the directive of June 15, 1978, as amended, for categories 313, 331, 338/339, 341, 347/348, 633/634/635, 641, 647, and 648 to the following levels:

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward up to 7.15 pct of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Category	*Amended 12-month level of restraint* [3]	
313	45,472,256	square yards
331	484,928	dozen
338/339	498,331	dozen
341	382,779	dozen
347/8	845,728	dozen
347	415,364	dozen
348	641,796	dozen
633/4/5	1,455,436	dozen
633/4	959,885	dozen
635	713,868	dozen
641	667,774	dozen
647	1,936,225	dozen
648	3,261,604	dozen

The action taken with respect to the Government of the Republic of China and with respect to imports of cotton and manmade fiber textile products from the Republic of China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

(T.D. 79-65)

Drawback Rates—Customs Regulations Amended

Part 22, Customs Regulations, relating to drawback rates, amended

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE

PART 22—DRAWBACK

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that drawback rates shall expire 15 years after issuance or

[3] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1977.

approval unless renewed by the rate holder. Also, applications for drawback rates shall be considered as abandoned if supporting drawback statements are not filed within one year of receipt of the application. Customs currently is required to maintain files consisting of obsolete rates and applications. The changes are being made so that Customs may dispose of these obsolete files.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT: Donald Beach, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–5856.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 24, 1978, notice was published in the Federal Register (43 FR. 3286) of a proposal to amend part 22, Customs Regulations (19 CFR pt. 22), relating to claims for drawback.

The term "drawback" refers to a situation in which a duty or tax, lawfully collected, is refunded because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of claim for drawback is when articles manufactured or produced in the United States with the use of imported merchandise are exported (sec. 313(a), Tariff Act of 1930 as amended (19 U.S.C. 1313(a))).

A rate of drawback is a contract between the Customs Service and a drawback applicant based on the applicant's description of his manufacturing operation for certain products which permits him to file drawback claims for these products with reasonable certainty that he will receive a refund of the duty or tax collected. Section 22.3, Customs Regulations, provides that each manufacturer or producer of articles intended for exportation with benefit of drawback shall make application for the establishment of a rate of drawback. Section 22.3(c) provides that the manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect addressed to the district director with whom the application was filed or to the Customs investigating officer. In practice, however, applicants who have abandoned applications for drawback rates rarely file such a statement. As a result, many abandoned applications are still on file with Customs. To enable Customs to remove these obsolete applications from its files, it was proposed to amend section 22.3(c) to provide that applications would be considered abandoned if supporting drawback statements, required by section 22.4(h), Customs Regulations, are not filed within 1 year of receipt of the application.

287-543—79——3

Section 22.4, Customs Regulations, provides for the establishment of drawback rates. Currently, established drawback rates remain in effect indefinitely. As a result, Customs maintains files of established drawback rates which frequently have become obsolete. To enable Customs to remove these obsolete documents from its files, it was proposed to amend section 22.4 to provide that drawback rates would expire after a period of 15 years, unless they are renewed. All drawback applicants holding current drawback rates will receive written notice from the appropriate regional commissioner of Customs informing them that rates which are 15 years old, unless renewed, will expire 90 days after the date of that letter.

Interested persons were given until February 25, 1978, to submit comments regarding the proposal.

DISCUSSION OF COMMENTS

TIME LIMIT TO RENEW DRAWBACK RATES

Almost all commenters were concerned with the proposal in section 22.4(r) to revoke existing drawback rates if the rates were not renewed within 30 days from the date of the notice to renew. The commenters thought that allowing 30 days to renew was too short a time considering the serious consequence of having a rate revoked, and requested that the time be extended.

Customs believes that this point is well taken. Therefore, section 22.4(r) has been revised to extend the time period within which to renew drawback rates to 90 days from the date of notice. This should give existing rate holders ample time to renew their rates.

TIME LIMIT FOR ABANDONMENT OF DRAWBACK APPLICATIONS

Several commenters objected to the 1-year time limit for abandonment of applications set forth in proposed section 22.3(c). Comments ranged from suggestions as to when the 1-year limit should begin to run to recommendations that the time limit be extended. Some commenters stated that written notice should be given by Customs before canceling applications and that an application should not be canceled if Customs is aware that the importer does not intend to abandon his application.

These statements and objections apparently stem from a mistaken belief that the 1-year limit for abandonment of applications is absolute, and that it is mandatory that a correct and complete supporting drawback statement be submitted within the 1-year period. It is not Customs intention that this provision be used to cancel an application which an applicant desires to keep active. Any contact by the applicant with Customs headquarters or, in the case of applications under 19 U.S.C. 1313(a), the appropriate Customs regional office, regarding

the application will extend the running of the 1-year period. For example, a telephone request for more time to submit the supporting drawback statement would be sufficient to advise Customs of an intent to keep an application active. Even if a drawback application is mistakenly abandoned by an applicant, the application can be reinstituted without the applicant losing drawback rights. An applicant need merely resubmit his application and then proceed to prepare his supporting drawback statement to obtain a rate of drawback.

Because of Customs liberal view of permitting any contact by the applicant to extend the 1-year period and the simple method of reinstituting an abandoned application without the applicant losing drawback rights, the time limit for abandonment of applications is not being extended.

EXPIRATION OF DRAWBACK RATES

Several commenters objected to the proposal in section 62.4(r) that drawback rates expire after 15 years unless renewed by the rate holder.

One commenter suggested that Customs notify rate holders at least 60 days prior to expiration of the 15-year period. Another suggested that if a claim has been filed under the rate within a 5-year period prior to the expiration date, it should be considered as renewed for a succeeding 5-year period. It also was contended that the expiration of all nonrenewed rates would be arbitrary.

Under present procedures, established drawback rates remain in effect indefinitely even though in many cases they may have become obsolete and are not used. However, Customs has no way of determining which rates are obsolete and, therefore, may be removed from the files. There are approximately 9,500 drawback rates on file at the Customs headquarters alone, some of which have been on file since the 1920's. In addition, an even greater number of drawback rates is on file with the regional Customs offices. Customs estimates that at least 25 percent of these rates are obsolete and could be removed from the files. So that Customs may dispose of these obsolete files, it has been determined that drawback rates must have an expiration date with a simple renewal procedure. Customs believes that the proposal presents a practicable and reasonable method for keeping drawback files current without imposing an unreasonable burden on the rate holder. All the rate holder need do is be aware of the date his rates were issued or approved and to submit a written request for renewal prior to the expiration of 15 years from that date.

One commenter noted that some drawback claimants are not drawback rate holders but merely manufacture drawback merchandise for other businesses that claim drawback. The commenter is concerned

that if the rate holder fails to renew his drawback rates, the claimant will have no recourse.

Customs believes that in this situation, the drawback claimant also should be aware of the date the drawback rates was issued or approved and be in a position to take appropriate steps to see that the rate is renewed timely. This should not be an unreasonable burden for a business that is a drawback claimant.

Another commenter contended that drawback rates amended after the date of issuance or approval should expire 15 years from the date of amendment.

Customs agrees with this comment. As noted in section 22.4(o)(1), if an applicant submits a revised drawback statement, the previous drawback rate will be superseded by an amended rate. Section 22.4(r) has been reworded to reflect that the amended rate will remain in effect for 15 years from the date of approval of the revised drawback statement.

REVISED DRAWBACK STATEMENT REQUIRED

Several objections related to proposed section 22.4(o)(1), which would require a revised drawback statement, instead of a supplemental drawback statement, to amend an existing drawback rate. One commenter contended that requiring revised drawback statements places an additional burden on the public for no substantial reason. Another commenter suggested that only a letter be required where minor revisions are involved.

Proposed section 22.4(o)(1) does not require that a complete and new drawback statement be submitted to Customs in every instance to effect minor changes in an existing rate. A complete and new drawback statement would be required only if there ware a change from the existing drawback rate to a new rate for an entirely different product produced from different designated merchandise or if there were a substantive change in the drawback rate.

As proposed, section 22.4(o)(1) would enable Customs to have all information relative to a rate of drawback for a product in a single drawback statement identified by its individual Treasury decision number. This will avoid problems for Customs and the rate holder which exist when a rate holder has different rates for different products under one Treasury decision which has been amended several times.

EXPIRATION OF ALL RATES

Two commenters requested that expiration of drawback rates after 15 years should apply only to inactive or obsolete rates. Because section 22.43 provides that drawback claims are subject to audit at any time, the commenters claim that by means of the audit program, Customs should be aware of which rates are inactive.

While Customs agrees that only those rates which are inactive or obsolete should expire, it believes that the drawback offices should not be required to be guided by audit activity to determine which rates should be renewed and which claims are active. Customs does not have the necessary resources to audit continuously all rate holders and believes that such a procedure would not be operationally feasible. Customs is of the opinion that to require rate holders who have active rates to renew them is the only practicable and reasonable way to identify inactive and obsolete rates. This procedure is certainly less of a burden to Customs and rate holders than submitting to an audit merely to determine if the rates are active.

APPLICATION NOT REQUIRED BEFORE EXPORTATION

One commenter claimed that section 22.4(n), which requires that a drawback application be filed before exportation of the articles on which drawback is sought, would not be necessary if the proposed amendments are adopted. The commenter correctly stated that the date of filing a drawback application need no longer affect whether drawback will be allowed. The application is used solely as a means of activating a procedure under which Customs responds to the applicant with an explanation of how to obtain a drawback rate.

Customs agrees with this comment. Accordingly, this section is being deleted. Also, as suggested by the commenter, the last sentence of both proposed sections 22.3(c) and 22.4(o)(1) and that portion of the first sentence of present section 22.3(a), which refers to denial of drawback on articles exported prior to receipt of their drawback application, are being deleted.

RATES RENEWED AT EACH REGION

One commenter suggested that proposed section 22.4(r)(3), which provides that a rate holder may renew its rate by submitting a written request to the regional commissioners where drawback entries have been liquidated, is inconsistent with present sections 22.4(i), 22.4(o), and 22.6(b).

Sections 22.4(i), 22.4(o), and 22.6(b) provide, in effect, that amendments or approvals of drawback rates are to be submitted to the regional offices where the drawback claims have been or will be liquidated, and the regional commissioner at the first region listed will issue the amendment or approval of the drawback rates.

Drawback application, amendment, and renewal procedures are separate and distinct processes. It is not necessary, therefore, that the renewal step operate in the same manner as other drawback processes.

EDITORIAL CHANGES

The paragraph heading of proposed section 22.3(c) has been changed from "Abandonment of rates" to "Abandonment of applications" and paragraph headings have been added to sections 22.3 (a) and (b). The reference to "(g)(1)" in the last sentence of proposed section 22.6(a) has been changed to "(g–1)."

DRAFTING INFORMATION

The principal author of this document was Harold M. Singer, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

To reflect these changes, part 22 of the Customs Regulations (19 CFR pt. 22) is amended as set forth below.

R. E. CHASEN,
Commissioner of Customs.

Approved: February 12, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

PART 22—DRAWBACK

1. Section 22.3 is amended to read as follows:

22.3 Application for establishment of drawback rate.

(a) *General.*—Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application for the establishment of a rate of drawback. The application shall be made on Customs Form 4477 or in a substantially similar form and shall be filed with the district director at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the prescribed form.

(b) *Vessels or aircraft.*—In the case of a vessel or aircraft on which drawback is to be claimed under section 313(g), Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft.

(c) *Abandonment of applications.*—The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect with the Customs officer with whom the application was filed. An application shall be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application.

2. The heading and section 22.4 are amended by deleting paragraph (n), amending paragraph (o), and adding a new paragraph (r), as set forth below:

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback: establishment of drawback rates; expiration of drawback rates.

* * * * * * *

(n) [Reserved.]

(o)(1) *Amendment of rates.*—When a manufacturer or producer having a drawback rate desires to have the rate amended under section 313(a), Tariff Act of 1930, or to change a drawback statement filed under § 22.6, he shall submit a revised drawback statement to the regional commissioner who issued the rate. If warranted, the regional commissioner shall issue an amended rate and revoke the superseded rate in the same action. This procedure also shall apply to amendments of the other rates set forth in paragraph (h) of this section. The revised drawback statement shall be submitted to Headquarters. U.S. Customs Service, except as provided in paragraph (o)(2).

(2) A revised drawback statement requesting an amendment under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, shall be submitted to the regional commissioner for action in accordance with paragraph (o)(1), provided the changes covered by the amendment are limited to—

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback rate of the manufacturer or producer;

(iii) A change in name of the manufacturer or producer;

(iv) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(v) Any combination of the foregoing changes.

* * * * * * *

(r) *Expiration, revocation, renewal, or amendment of rates.*—(1) Unless renewed by the rate holder in accordance with paragraph (r)(3), drawback rates issued under this section, or contained in statements approved under section 22.6, shall expire 15 years from the date of issuance or approval, or from the date of approval of any amendment, as applicable, provided such date is on or after [*effective date of this rule*].

(2) If the dates of issuance or approval are before [*effective date of this rule*], an appropriate Customs officer shall notify the rate holder in writing of the provisions of this paragraph. Unless renewed by the rate holder in accordance with paragraph (r)(3), such rate shall expire the later of:

(i) 15 years from the date of issuance or approval, as applicable, or

(ii) 90 days from the date of the notice to the rate holder.

(3) A rate holder may renew its rate by submitting a request in writing, prior to the expiration of the rate, to each regional commissioner where drawback entries filed under the rate have been liquidated. The rate shall be renewed for a succeeding 15-year period upon receipt of the request.

(4) A rate will be revoked if the rate holder specifically requests revocation in writing to the appropriate Customs officer.

3. Paragraphs (a) and (c) of section 22.6 are amended to read as follows:

§ 22.6 General drawback rates in effect: approval of drawback statements by Headquarters, U.S. Customs Service, and by regional commissioners.

(a) *Drawback statements, filing and approval by one regional commissioner.*—Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g–1), shall submit to the regional commissioner where drawback entries will be filed a drawback statement, in duplicate, describing the methods used in the manufacture or production of the products involved. The statement also shall set forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of entries. If the statement provides for compliance with the rate, the regional commissioner shall approve the drawback statement and promptly notify the applicant in writing of the action. Drawback statements, in triplicate, relating to products covered by paragraph (g–1) shall be forwarded to Headquarters, U.S. Customs Service for approval.

* * * * * * *

(c) *Drawback statements; revised.*—Revised drawback statements covering changes in drawback statements filed under this section shall be handled in accordance with the provisions of paragraphs (a) and (b) of this section.

* * * * * * *

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759 (19 U.S.C. 66, 1313, 1624).)

[Published in the Federal Register, Feb. 27, 1979 (44 F.R. 11061)]

(T.D. 79-66)

Countervailing Duties—Textiles and Textile Products From Republic of Korea, the Philippines, Taiwan, and India

Notice of desire to contest final countervailing duty determinations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of desire to contest determinations made by the Secretary of the Treasury under 19 U.S.C. 1303.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has recieved notification from the Amalgamated Clothing and Textile Workers Union of its desire to contest the final determinations that bounties or grants are not being paid or bestowed with respect to textiles and products imported from Korea, the Philippines, Taiwan, and India.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT: R. Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5476.

SUPPLEMENTARY INFORMATION: On November 16, 1978, "Final Countervailing Duty Determinations" relating to textiles and textile products from Korea, the Philippines, Taiwan, and India were published in the Federal Register (43 F.R. 53524, 53527-30). It was stated in these determinations that bounties or grants were not being paid or bestowed, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), on the manufacture, production or exportation of textiles and textile products from the above-mentioned countries.

Notification was received by the Secretary of the Treasury on December 15, 1978, of the desire of the Amalagmated Clothing and Textile Workers Union to contest in the U.S. Customs Court the Secretary's determinations that bounties or grants were not bestowed by the above-noted countries on the manufacture, production, or exportation of textiles and textile products.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that the Amalgamated Clothing and Textile Workers Union has informed the Secretary that it desires to contest the determinations with respect to textiles and textile products from Korea, the Philippines, Taiwan, and India.

The Department does not consider the Amalgamated Clothing and Textile Workers Union to be an American manufacturer, producer or

wholesaler, so as to have standing to contest the determinations in question pursuant to 19 U.S.C. 1516. However, this notice is being published so as not to frustrate any effort to seek judicial review of this issue or the determinations themselves.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: February 16, 1979.
ROBERT H. MUNDHEIM
General Counsel of the Treasury.

[Published in the Federal Register, Feb. 27, 1979 (44 F.R. 11136)]

(T.D. 79-67)

Countervailing Duties—Textiles and Textile Products From Argentina and Colombia

Notice of desire to contest final countervailing duty determinations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of desire to contest determinations made by the Secretary of the Treasury under 19 U.S.C. 1303.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification from the Amalgamated Clothing and Textile Workers Union of its desire to contest the final determinations that certain practices did not constitute the payment or bestowal of bounties or grants on the manufacture of specific textile products imported from Argentina and Colombia.

EFFECTIVE DATE February 27, 1979.

FOR FURTHER INFORMATION CONTACT: R. Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5476.

SUPPLEMENTARY INFORMATION: On November 16, 1978, "Final Countervailing Duty Determinations" were published in the Federal Register (43 F.R. 53421 and 53525). While both determinations were affirmative, it was determined that with regard to certain programs and their application to specific products, bounties or grants were not being paid or bestowed, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), on the manufacture, production, or exportation of textiles and textile products from the above-mentioned countries. The Colombian merchandise found to benefit from the bounties or grants enters the U.S. duty-free.

Accordingly, pursuant to section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), this case has been referred to the U.S. International Trade Commission for a determination as to whether an industry in the United States is being, or is likely to be, injured. Pending the Commission's decision, liquidations on the duty-free apparel in question have been suspended.

Notification was received by the Secretary of the Treasury on December 15, 1978, of the desire of the Amalgamated Clothing and Textile Workers Union to contest in the U.S. Customs Court the Secretary's determinations that bounties or grants were not bestowed by Argentina and Colombia on the manufacture, production, or exportation of certain textiles and textile products.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that the Amalgamated Clothing and Textile Workers Union has informed the Secretary that it desires to contest the determinations with respect to textiles and textile products from Argentina and Colombia.

The Department does not consider the Amalgamated Clothing and Textile Workers Union to be an American manufacturer, producer, or wholesaler, so as to have standing to contest the determinations in question pursuant to 19 U.S.C. 1516. However, this notice is being published so as not to frustrate any effort to seek judicial review of this issue or the determinations themselves.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: February 16, 1979.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[Published in the Federal Register Feb. 27, 1979 (44 F.R. 11137)]

Decisions of the United States Customs Court

Customs Decisions

(C.D. 4788)

ASG INDUSTRIES, INC., PPG INDUSTRIES, INC., LIBBEY-OWENS-FORD COMPANY, AND C E GLASS *v.* UNITED STATES

Float glass—Countervailing duties

"BOUNTY" OR "GRANT"

Where various types of government financial assistance have been extended by a foreign country, *viz.* Great Britain, to undeveloped regions of that country for generally political, policymaking and economic reasons not conditioned upon exportation, the Secretary of the Treasury's decision that no "bounty" or "grant" has been paid or bestowed upon an article or merchandise imported into this country was upheld.

WIDE DISCRETION—SECRETARY'S DECISION

The Secretary of the Treasury has wide discretion in determining what acts of foreign governments confer bounties or grants. *United*

States v. *Hammond Lead Products, Inc.*, 58 CCPA 129, C.A.D. 1017, 440 F. 2d 1024 (1971), *cert. denied*, 404 U.S. 1005 (1971); *United States* v. *Zenith Radio Corporation*, 64 CCPA 130, C.A.D. 1195 (1977), *aff'd*, 437 U.S. 443 (1978).

COUNTERVAILING DUTY

When the determination has been made that no bounty or grant has been paid or bestowed, directly or indirectly, upon the manufacture, production or export of any article, within the meaning of section 303(a) of the Tariff Act of 1930, as amended by section 331(a) of the Trade Act of 1974, then no countervailing duty will be levied.

Court No. 76-3-00642

[Plaintiffs' motion for summary judgment denied; defendant's cross-motion for summary judgment granted.]

(Decided February 6, 1979)

Stewart & Ikenson (*Eugene L. Stewart* and *Frederick L. Ikenson* of counsel) for the plaintiffs.

Barbara Allen Babcock, Assistant Attorney General (*David M. Cohen*, Chief, Customs Section; *Joseph I. Liebman*, *John J. Mahon* and *Sidney N. Weiss*, trial attorneys), for the defendant.

Pilkington Brothers, Limited (*Charles W. Smith*, attorney; *Morgan, Lewis & Bockius* of counsel) as *amicus curiae*.

LANDIS, Judge: This case raises the question of whether various forms of government-financed regional development programs instituted by Great Britain come within the provisions of section 303(a) of the Tariff Act of 1930, as amended by section 331(a) of the Trade Act of 1974.[1] The statute provides:

> (1) Whenever any country * * * shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country * * * then upon the importation of such article or merchandise into the United States * * * there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed * * * a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

It is the holding of this court that these programs do not come within the purview of the statute.

This case comes here by motion and cross-motion for summary judgment pursuant to rules 4.12 and 8.2 of this court. The facts are undisputed as they relate to the decision.

[1] 88 Stat. 1978, 2049 (1975), 19 U.S.C. 1303(a) (supp. V 1975).

Plaintiffs,[2] who are domestic manufacturers and wholesalers of float glass, informed the Commissioner of Customs by petition, pursuant to section 303(a) of the Tariff Act of 1930, as amended supra, that certain bounties or grants were being paid upon the manufacture or production of float glass in the United Kingdom or upon exportation. The Department of the Treasury conducted an investigation and published in 1975 a "Notice of Preliminary Countervailing Duty Determination" in the Federal Register, in part as follows (40 F.R. 27499):

> British Government officials have advised the Treasury Department that the regional development programs have the effect of offsetting disadvantages which would discourage industry from moving to and expanding in less prosperous regions. They have produced evidence that assistance given is available to all industries within the regional development areas and is in no way conditioned upon exports. Based on 1974 production figures for United Kingdom float glass, 26 percent of all such production was exported, and a small percentage of this amount was exported to the United States. The amount of assistance provided by the regional incentive programs was less than 1 percent of the value of the float glass sold.

It was concluded by the Department of the Treasury that no bounty or grant was being paid.

Thereafter a notice of "Final Countervailing Duty Determination" was published in the Federal Register, in part as follows (40 F.R. 59227):

> After consideration of all information received, a final determination is hereby made, that, for the reasons stated in the preliminary determination, no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of float glass from the United Kingdom.

Subsequently, in 1977 an "Amendment of Notice of Preliminary Countervailing Duty Determination" was published in the Federal Register, in part as follows (42 F.R. 20525):

> The information obtained during the investigation conducted was recently reviewed and it is deemed appropriate, for the purposes of accuracy, to correct the last sentence of paragraph three of the preliminary determination to read as follows:
>
> > The amount of assistance provided by the regional incentive programs was slightly over 1 percent of the value [the exact amount is less than two percent, but is not stated in order to protect confidential commercial information] of the float glass sold.

[2] The plaintiffs are: ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Co., and C E Glass.

This correction in no way affects the final negative countervailing duty determination issued previously in this case.

Plaintiffs, pursuant to section 516(d) of the Tariff Act of 1930, as amended by section 321(f) of the Trade Act of 1974,[3] served notice of intention to contest the negative determination and filed summons in this court.

The facts surrounding the alleged bounties or grants in this case are deemed to be material and will now be discussed.

The benefits were received by Pilkington Brothers, Ltd. (hereinafter referred to as "P.B.L."),[4] the only float glass producer in the United Kingdom. P.B.L., in one name or another, had since the year 1826 manufactured a variety of glass products.

Between the late 1950's and the early 1970's, P.B.L. constructed four float glass "lines" or plants to replace the facilities used previously. The production plants all were located at St. Helens, county of Merseyside, a depressed economic area, designated as a development area so as to qualify for regional economic assistance. The area was later designated as a special development area and Great Britain paid as much as 22 percent of the cost of the buildings, plant, and machinery and the repair thereon and during the years from 1967 to 1974 had expended a total of approximately 5 million pounds thereon.

The various reasons for the extending of government assistance were generally political, policymaking, and economic in nature and are too numerous to mention in detail, but in none of them was eligibility conditioned upon the amount of exportation. In all of P.B.L.'s production for 1974, approximately 26 percent was exported and only a small percentage of this amount was exported to the United States. The amount of assistance provided by the Government programs was between 1 and 2 percent of the value of the float glass sold. Both parties concur that the amount of benefit was more than de minimis. All the grants were cash payments.[5]

Plaintiffs contend, in the light of *Downs* v. *United States*, 187 U.S. 496 (1903) and *Nicholas & Co.* v. *United States*, 249 U.S. 34 (1919), that any aid received by a foreign manufacturer, in more than de minimis amounts, is a bounty or grant for purposes of section 303(a)

[3] (d) Contest of Secretary's determination that foreign merchandise is not being sold in the United States at less than fair value or that bounty or grant is not being paid.
Within 30 days after a determination by the Secretary—
(1) under section 160 of this title, that a class or kind of foreign merchandise is not being, nor likely to be, sold in the United States at less than its fair value, or
(2) under section 1303 of this title, that a bounty or grant is not being paid or bestowed,
an American manufacturer, producer, or wholesaler of merchandise of the same class or kind as that described in such determination may file with the Secretary a written notice of a desire to contest such determination. Upon receipt of such notice the Secretary shall cause publication to be made thereof and of such manufacturer's, producer's, or wholesaler's desire to contest the determination. Within 30 days after such publication, such manufacturer, producer, or wholesaler may commence an action in the United States Customs Court contesting such determination. [88 Stat. 1978, 2048 (1975), 19 U.S.C. 1516(d) (Supp. V 1975).]

[4] P.B.L. filed a brief as amicus curiae.

[5] At a preliminary hearing on or about Feb. 15, 1977, the court considered the contentions of the parties and entered appropriate orders.

of the Tariff Act of 1930, as amended, 19 U.S.C. 1303(a). Defendant, on the other hand, cites the statute as to the presumption of correctness [6] and traces the history of bounties and grants in a number of European nations. Defendant argues that the legislative history of the countervailing duty statute demonstrates that only those programs which distort international trade (or promote exports) were intended to be reached by the statute and that Congress left for the Secretary of the Treasury the determination as to which programs constituted a bounty or grant within the meaning of the act.

As stated by the Court of Customs and Patent Appeals in *United States* v. *Hammond Lead Products, Inc.*, 58 CCPA 129, 137, C.A.D. 1017, 440 F. 2d 1024 (1971), *cert. denied*, 404 U.S. 1005 (1971): "* * * In the assessment of a countervailing duty, the determination that a bounty or grant is paid necessarily involves judgments in the political, legislative, or policy spheres."

These judgments have been left to the Secretary, and as the Court further states at page 139: "There can be no doubt that the Secretary is under a legal duty to assess countervailing duties if he sees a bounty or grant being paid, and we think he does and must exercise some discretion in defining what acts of foreign governments confer bounties or grants, when the case is doubtful."

Also, as was stated by the Court of Customs and Patent Appeals in *United States* v. *Zenith Radio Corporation*, 64 CCPA 130, at pages 138–39, C.A.D. 1195 (1977), *aff'd*, 437 U.S. 443 (1978):

> * * * Congress' intent to provide a wide latitude, within which the Secretary of the Treasury (Secretary) may determine the existence or non-existence of a bounty or a grant, is clear from the statute itself, and from the congressional refusal to define the words "bounty," "grant," or "net amount," in the statute or anywhere else, for almost 80 years. As affects the present case, and consistent with that broad intent, Congress has not statutorily required that every governmental action distinguishing between products consumed at home and those exported shall be deemed the bestowing of a bounty or grant.
>
> * * * * * * *
>
> Neither form nor nomenclature being decisive in determining whether a bounty or grant has been conferred, it is the *economic* result of the foreign government's action which controls. Thus, the language of § 303, "[w]henever any country * * * shall pay or bestow * * * any bounty or grant," requires a factual inquiry. The statute assigns that factual inquiry, in the first instance, to the Secretary. Courts may review a factual record upon which a determination has been based, but are woefully

[6] In any matter in the Customs Court:
(a) The decision of the Secretary of the Treasury, or his delegate ,is presumed to be correct.* * * '84 Stat. 260,28 U.S.C. 2635.]

> ill-equipped to undertake unaided the complex economic analyses required to determine whether a bounty or grant has in fact been conferred as a result of a particular governmental action. * * * [Italic supplied.]

And as stated by the Supreme Court in *Zenith* v. *United States* (pp. 14–15 of slip opinion):

> Aside from the contention, discussed in part III, infra, that the Department's construction is inconsistent with this Court's decisions, petitioner's sole argument is that the Department's position is premised on false economic assumptions that should be rejected by the courts. In particular, petitioner points to "modern" economic theory suggesting that remission of indirect taxes may create an incentive to export in some circumstances, and to recent criticism of the GATT rules as favoring producers in countries that rely more heavily on indirect than on direct taxes.[14] But even assuming that these arguments are at all relevant in view of the legislative history of the 1897 provision and the longstanding administrative construction of the statute, they do not demonstrate the unreasonableness of the Secretary's current position. Even "modern" economists do not agree on the ultimate economic effect of remitting indirect taxes, and—given the present state of economic knowledge—it may be difficult, if not impossible, to measure the precise effect in any particular case. See, e.g., Executive Branch GATT Studies, supra, at 13–14, 17; Marke & Malmgren, supra, n. 14, at 351. More fundamentally, as the Senate Committee with responsibility in this area recently stated, "the issues involved in applying the countervailing duty law are complex, and . . . internationally, there is [a] lack of any satisfactory agreement on what constitutes a fair, as opposed to an 'unfair,' subsidy." S. Rept. No. 93–1298, page 183 (1974). In this situation, it is not the task of the judiciary to substitute its views as to fairness and economic effect for those of the Secretary.

The facts in *Zenith*, supra, were that Japan imposed a commodity tax on electronic products when they were sold in that country but remitted the tax for those products which were exported. The issue was whether Japan conferred a "bounty" or "grant" on certain consumer electronic products by failing to impose the commodity tax on those products when they were exported.

The Court concluded the determination made by the Secretary of the Treasury was reasonable in holding that the nonexcessive Japanese

[14] See, e.g., Marks & Malmagren, Negotiating Nontariff Distortions to Trade, 7 L. & Policy in Int'l Bus. 327, 351-355 (1975); The United States Submission on Border Tax Adjustments to Working Party No. 4 of the Council on Border Tax Adjustments, Organization for Economic Cooperation and Development (1966), reprinted in App. 93–116; Paper Submitted by John R. Petty, Assn't Sec'y of the Treasury, Twenty-First Annual Conference of the Canadian Tax Foundation (1968), reprinted in App. 117–138. Both the Secretary and GATT apparently consider remissions of direct taxes (e.g., income taxes) to be countervailable export subsidies. See Brief for the United States 18 n. 10, 37–38; GATT, Basic Instruments and Selected Documents, 9th Supp., at 186–187 (1961).

tax was not a "bounty" or "grant" within section 303(a) of the Tariff Act of 1930, as amended, and should not be countervailed.

In supplemental briefs filed here the parties have debated the relevance of *Zenith*. The Supreme Court's opinion certainly is not on all fours with the instant litigation. In *Zenith*, a tax remission was involved. Here, we have cash subsidies given for certain "underdeveloped" areas. Nevertheless, the approach of *Zenith* and the general thrust do have significant relevance for the case at bar.

In the *Zenith* case, the Supreme Court stated (p. 7 of slip opinion):

> The question is thus whether, in light of the normal aids to statutory construction, the Department's interpretation is "sufficiently reasonable" to be accepted by a reviewing court. *Train* v. *Natural Resources Defense Council*, 421 U.S. 60, 75 (1975). * * *

In the instant case, there is no question but that the Government's interpretation is "sufficiently reasonable."

In view of the legislative intent, the presumption of correctness, the reasonableness of the Secretary's decision, and the thrust of *Zenith*, it is the holding of this court that the programs of Great Britain do not come within the purview of section 303(a) of the Tariff Act of 1930, as amended.[7]

In light of the result reached, the court has not discussed all the arguments of the parties.

For all these reasons, plaintiffs' motion for summary judgment is denied and defendant's cross-motion for summary judgment is granted. Judgment will be entered accordingly.

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[7] The recent decision of Judge Ford of this court, C.D. 4782, decided Jan. 5, 1979, appeal pending, is noted.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *Feburuary 12, 1979.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P79/24	Ford, J. February 6, 1979	Import Specialists, Inc.	76-8-01903	Item 222.40 25%	Item 222.60 12.5%	Judgment on the pleadings	Longview (Portland, Oreg.) No. R-643 Wall Rack and No. R-591 Wall All
P79/25	Watson, J. February 8, 1979	Mobay Chemical Corp.	75-6-01468	Item 405.25 9%+1.4¢ per lb.	Item 494.60 2.5%	Naftone, Inc. v. U.S. (C.D. 4578, aff'd C.A.D. 1166)	New York Desmocoll 400, etc.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P79/26	Watson, J. February 8, 1979	Mobay Chemical Corp.	75-9-02481	Item 405.25 9%+1.4¢ per lb.	Item 494.60 2.5%	Naftone, Inc. v. U.S. (C.D. 4578, aff'd C.A.D. 1166)	San Francisco Desmocoll 400

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R79/24	Ford, J. February 6, 1979	Consolidated Sewing Machine Corp.	R59/17828, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Sewing machine heads

Appeal to U.S. Court of Customs and Patent Appeals

APPEAL 79–15.—ASG Industries, Inc., PPG Industries, Inc., Libbey–Owens–Ford Co., and C E Glass *v.* United States—AMERICAN MANUFACTURERS' ACTION—FLOAT GLASS—BOUNTIES OR GRANTS—COUNTERVAILING DUTIES—SUMMARY JUDGMENT. Appeal from C.D. 4782.

In this case plaintiffs-appellants, domestic manufacturers and wholesalers of float glass, instituted an American manufacturers' proceeding in the Customs Court pursuant to section 516(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(d)), to challenge the determination by the Secretary of the Treasury that bounties or grants were not being paid or bestowed upon the manufacture or production of float glass in the Federal Republic of Germany (West Germany). Low-interest loans and investment subsidies in the form of cash grants were given to producers of float glass in West Germany and plaintiffs alleged such importations of float glass were subject to assessment of countervailing duties in accordance with section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)). Defendants appellee contended the bounties or grants were not countervailable since they did not tend to distort international trade. The Customs Court found plaintiffs had failed to overcome the presumption of correctness attaching to the action of the Secretary of the Treasury. Plaintiffs' motion for summary judgment was denied, and defendant'-cross-motion for summary judgment was granted.

It is claimed that the Customs Court erred in finding and holding that the bestowal of grants, viz, low-niterest loans and investment subsidies in the form of cash grants and tax credits, upon the manufacture or production of float glass in West Germany by Vereinigte Glaswerke G.m.b.H. (Vereinigte) and Flachglas A.G. (Flachglas), under various so-called regional development programs administered by the Federal and State Governments, does not constitute the payment or bestowal of bounties or grants within the meaning of section 303(a), supra; in not directing the Secretary of the Treasury to ascertain and determine or estimate the net amount of the bounties or grants paid or bestowed upon the manufacture or production of float glass in West Germany, by Vereinigte and Flachglas, taking into account the annual cash flow equivalent benefit to the recipient as the real value of the investment subsides; in not directing the Secretary of the Treasury to order the appropriate customs officers throughout the United States to assess countervailing duties on float glass imported from West Germany and manufactured or pro-

duced in West Germany by Vereinigte and Flachglas, in an amount equal to the net amount of the bounties or grants paid or bestowed upon the manufacture or production of said float glass, entered or withdrawn from warehouse for consumption on or after the day following the date of entry of the Customs Court's decision and judgment; in denying the motion of plaintiffs-appellants for summary judgment; in granting the corss-motion of defendant-appellee for summary judgment; and in permitting the Secretary of the Treasury to act contrary to law.

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